

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

October 23, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

STATEWIDE

Approval for Holding Public Hearings and Appointment of  
Hearing Officers for the Purpose of Amending Hawaii  
Administrative Rules Section 13-1-5

REQUEST:

Approval for holding public hearings and appointment of hearing officers for the purpose of amending Hawaii Administrative Rules Section 13-1-5 to allow greater discretion in scheduling regular meetings of the Board of Land and Natural Resources

LEGAL REFERENCE:

Section 171-5, Hawaii Revised Statutes

REMARKS:

In order to more effectively deal with severe budget restrictions, the Chairperson has requested that amendments be made to Hawaii Administrative Rules ("HAR") Section 13-1-5, which set forth the requirements for meetings of the Board of Land and Natural Resources ("Board"). The goal is to provide greater flexibility for the scheduling of Board meetings for the purpose of cutting administrative costs.

HAR Section 13-1-5 currently specifies that the Board shall conduct regular meetings on the "second and fourth Friday of each and every month." The rule derives its authority from Hawaii Revised Statutes § 171-5 which states the Board shall hold regular meetings "not less than once a month and the board shall provide in its rules regulations the number and dates for the regular meetings." HAR Section 13-1-5 may be amended to allow the Board to conduct the minimum one regular meeting per month as required by HRS Section 171-5, rather than the two currently mandated by the administrative rule. The proposed language for the amendment is attached as Exhibit A.

Ideally, the proposed rule amendment could provide the Board the discretion to schedule meetings whenever deemed most convenient.

However, since HRS Section 171-5 requires that the number and dates of the Board's regular meetings be provided in its rules and regulations, it is necessary to provide a measure of specificity with respect to the meeting dates. As a result, the proposed amendment states that the Board shall hold its required monthly meeting on the second week of each month.

In order to comply with Sunshine law requirements, the Board shall provide public notice of the specific day of the week that a regular meeting is held in accordance with HRS Section 92-7. In addition, the proposed amendment states that the Board *may* hold a second regular meeting on the fourth week of each month. This is intended to provide the Board the discretion to hold a second regular meeting if needed, without being bound to the publication requirements in HAR Section 13-1-5(b) that are triggered when establishing another date or location of a regular meeting.

Furthermore, by amending the rule to hold its regular meeting for the second week of the month rather than a specific day, the Board retains the flexibility to schedule meetings around possible furlough dates. Assistance in this matter from the Department of the Attorney General has been requested. Comments from other agencies were not solicited at this time as it is very early in the process.

RECOMMENDATIONS:

That the Board:

1. Approve the conducting of public hearings for the purposed of amending Hawaii Administrative Rules Section 13-1-5, subject to the terms and conditions stated above and by this reference incorporated herein, and;
2. Approve the delegation to the Chairperson the authority to appoint hearing officers for the conducting the public hearings as referenced above.

Respectfully Submitted,

  
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Ian C. Hirokawa  
Project Development Specialist

APPROVED FOR SUBMITTAL

  
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Laura H. Thielen  
Chairperson

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§13-1-5 Meetings. (a) The board may meet and exercise its powers in any part of the State of Hawaii.

(b) ~~A regular Regular~~ meetings of the board shall be held in Honolulu, on the second week ~~and fourth Fridays~~ of each and every month. The board may also hold an additional regular meeting in Honolulu on the fourth week of each month. The board shall provide public notice of the day that a regular meeting is held pursuant to the requirements of HRS §92-7, as amended. ~~provided, however, that t~~ The board may establish another place or date for any regular meeting but shall give prior notice of the proposed changes in a newspaper of general circulation at least one week prior to the affected regular meeting.

(c) Special meetings may be convened by the chairperson of the board at any time pursuant to the requirements of HRS §92-7, as amended. ~~by giving notice to each member present in the State at least five days prior to the date of the meeting; provided however that the notice shall not be required if all members present in the State agree and sign a written waiver of the notice. No final action involving disposition of public lands may be done at the special meeting.~~

(d) All meetings of the board shall be open to the public; provided, that the board may meet, pursuant to sections 92-4 and 92-5, HRS, in executive session, from which the public may be excluded, by a recorded vote of two-thirds of the members present. No order, ruling, contract, appointment, or decision shall be finally acted upon in the executive session. [Eff 6/22/81; am and comp 2/27/09] (Auth: HRS §171-6) (Imp: HRS §§171-5, 92-3, 92-4, 92-5)

EXHIBIT "A"